

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

<b>UNITED STATES OF AMERICA</b>	§	
	§	
v.	§	<b>CRIMINAL NO. H-15-654-2</b>
	§	
	§	
<b>ABRAHAM JOSE SHIERA BASTIDAS</b>	§	
	§	

**DEFENDANT’S UNOPPOSED MOTION TO AMEND JUDGMENT**

Defendant, Abraham Jose Shiera Bastidas (“Mr. Shiera”), by and through his undersigned counsel, hereby respectfully submits his Motion to Amend Judgment to correct an omission of Mr. Shiera’s credit for time served pursuant to Fed. R. Crim. P. 36, or, alternatively, for an amendment pursuant to Fed. R. Crim. P. 35.

1. Mr. Shiera was sentenced by this Court at his October 13, 2022 sentencing hearing (“Sentencing Hearing”). His judgment in his criminal case (“Judgment”) [Dkt. 282] was entered on October 17, 2022. A true and correct copy of the Judgment is attached hereto as Exhibit “A”.

2. This Court sentenced Mr. Shiera to a custodial term of 12 months and a day.

3. Mr. Shiera was incarcerated in a federal detention center in Miami, and eventually Houston, without bond, for 5 months and one-week from December 16, 2015 to May 23, 2016.

4. At the Sentencing Hearing, the Court made clear that it intended for Mr. Shiera to receive full credit for the 5 months and one-week custodial term he served in a federal detention center before he was released on bond.

5. Specifically, as reflected in the transcript of the Sentencing Hearing, the Court ruled as follows on pp. 39 and 44:

THE COURT: I agree with Mr. Pearson that some kind of custodial sentence is required. He has five months credit, five or six months credit for the time that he has already been in custody. . . .

Sentencing Tr. 39:5-8, Exhibit “B” hereto.

\* \* \* \*

THE COURT: Anything else from defendant, Mr. Fetterman?

MR. FETTERMAN: I don't believe so. For clarification, Your Honor, you have sentenced Mr. Shiera to, I believe, a year and a day, and then he gets his five months' credit?

THE COURT: He will. The BOP will give him that credit since he was incarcerated and I intend for him to get it.

MR. FETTERMAN: Just wanted to clarify that. Thank you, Your Honor.

Sentencing Tr. 44:4-14, Exhibit “B” hereto.

6. While the Court made clear that it intended for Mr. Shiera to receive credit for his tenure in a federal detention center, the Judgment does not reference credit for that time.

7. In a recent conversation with Mr. Shiera on November 1, 2022, his Probation Officer in Miami raised questions with him regarding whether Mr. Shiera would be entitled to any credit for his time served in a federal detention center because that credit was not referenced in the Judgment. The Probation Officer also expressed some skepticism that the U.S. Bureau of Prisons (“BOP”) would afford Mr. Shiera credit for the 5 months and one-week he already served in its custody because reference to such credit was omitted from the Judgment.

8. It is Mr. Shiera’s position that the BOP is required to credit his prior 5 months and one-week in custody. However, in an abundance of caution, and for any avoidance of doubt that may arise with either the U.S. Probation Office, or the BOP, Mr. Shiera respectfully requests that this Court amend the Judgment to reflect that Mr. Shiera should receive full credit for the 5 months and one-week that he served in a BOP facility from December 16, 2015 until May 23, 2016.

9. This Court has the jurisdiction and ability to grant the relief requested herein post-sentencing. Pursuant to Fed. R. Crim. P. 36, this Court can amend Mr. Shiera’s judgment at any time to correct an oversight or omission. Further, pursuant to Fed. R. Crim. P. 35, this Court can amend a judgment in a criminal case at any

time within 14-days of its issuance to correct arithmetical, technical, or other clear errors.

10. Undersigned counsel for Mr. Shiera has conferred with Department of Justice Attorney Deputy Sonali Patel, who has confirmed that the Government does not oppose this Motion.

WHEREFORE, for the foregoing reasons and for good cause shown, Defendant Abraham Shiera respectfully requests that this Court amend the Judgment in his criminal case to include the Court's order that he receive full credit for the 5 months and one-week that he served in a BOP facility from December 16, 2015 until May 23, 2016.

Dated: November 1, 2022

Respectfully submitted,

/s/ Ann M. St. Peter-Griffith

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### **CERTIFICATE OF CONFERENCE**

I certify that the Counsel for Mr. Shiera has conferred with Department of Justice Attorney Deputy Sonali Patel, who confirmed that the Government does not oppose the relief requested by Mr. Shiera in the foregoing motion.

/s/ Ann M. St. Peter-Griffith

Ann M. St. Peter-Griffith

### **CERTIFICATE OF SERVICE**

I hereby certify that, on November 1, 2022, I electronically filed the foregoing motion with the Clerk of the Court using the ECF/CM system and served the foregoing motion by electronic mail on counsel for the United States.

/s/ Ann M. St. Peter-Griffith

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